

### **REMARKS**

Previously, claims 1-13 were cancelled and claims 14-36 were presented. Pursuant to a restriction requirement, claims 25-36 inclusive were withdrawn. As to the remaining claims of this application, claims 14, 15, 21, 22, 24 have been amended, and claims 16-20, 23 remain the same.

First, the Applicants' invention is a line of casual footwear, primarily sandals that allow the wearer to readily alter the appearance of the footwear. More precisely, a sandal has a strap, or tongue, that passes laterally over the arch of a foot and secures at its two ends to the edges of the sole. A person's foot fits under the tongue. The present invention is a swivel applied to the footwear at the tongue. The swivel allows a large portion of the tongue to rotate between two decorated surfaces while a small portion of the tongue remains in place upon the sole. Wearing or not wearing the footwear, the wearer can detach the large portion of the tongue, rotate the large portion, and secure the large portion back to the sole. The present invention provides the wearer with at least two appearances for the footwear.

Second, the examiner has objected to the drawings for not disclosing features in the claims. Regarding the vamp only covering the big toe, Applicant asserts that Fig. 20 shows the front vamp portion 52 as covering the big toe, see Specification, page 15, line 21. Regarding the tongue secured using hook and loop fasteners, Applicant asserts that Fig. 18 shows a hook and loop attachment as item 50, see Specification, page 15 lines 10-13, 25. Regarding the tongue conforming to the wearer's foot, Applicant asserts that Fig. 21 illustrates the feature of claim 21, see Specification, page 16 lines 7-10. Regarding the roller skate and inline skate features, Applicant asserts that those features are shown on shoes as in claim 14, in Figs. 29 and 30 respectively, see Specification, page 19 lines 8-11.

Third, as regarding the objection for indefiniteness, claim 14 has been edited to replace the sandal reference with a shoe reference for proper antecedent basis.

Fourth, the examiner has cited U.S. Pat. No. 2,049,347 to Benjamin as anticipating the present invention. Benjamin discloses ladies' footwear having a strap that crosses the instep from one side of a sole to the other and a strap that extends lengthwise for securement at the top of the arch. The straps rotate upon interlocking

stirrups that cooperate to swivel one end of the strap. The stirrups have a D shape connected by a pin 26. The pin is shown as cylindrical and riveted into the other stirrup.

In contrast, the present invention has a swivel connecting a tongue to the vamp of a shoe, particularly a sandal. The swivel of the present invention has two portions connected by a ball and socket joint. The ball and socket joint permits rotation of the tongue upon a longitudinal axis and deflection of the tongue somewhat laterally. The pin 26 of Benjamin does not permit deflection laterally. The swivel of the present invention also tapers in thickness and width from the joint to the attachment with the tongue and the vamp. The tapering blends the swivel into the appearance of the sandal and prevents tangling of pant legs with the joint. The stirrups of Benjamin have the rounded portions of the D shape stirrups facing each other which will collect pant legs and perhaps jam the swivel action. Claim 14 has been amended to include the ball and socket joint and the tapering of the joint in its attachment.

Fifth, the examiner has cited U.S. Pat. No. 6,321,466 to Bordin for obviousness in relation to the present invention. Bordin discloses a footwear, particularly a ski boot, with a tongue and a flexible band. The flexible band folds over itself in one turn and secures with hook and loop or other releasable fasteners. The flexible band is in line with the tongue, towards the toe cap, and does not allow complete rotation of the tongue about its longitudinal axis. In contrast, the present invention has a swivel that permits rotation of the tongue about its longitudinal axis and securement of the tongue to the vamp using hook and loop fasteners. As shown in Fig. 20, the tongue secures to the sides of the vamp, here with hook and loop fasteners.

Sixth, the examiner has cited U.S. Pat. No. 6,397,497 to McAtee for obviousness in relation to the present invention. McAtee discloses an accessory for the tongue of shoes, typically athletic shoes. The accessory has two opposed surfaces with indicia. The lower ends of the surfaces are joined with hook and loop fasteners. The accessory is made of a material that expands to admit the tongue of a shoe. In contrast, the present invention claims a tongue, itself, made from resilient stretchable material. While McAtee suggests a stretchable tongue cover, McAtee does not suggest a stretchable tongue as in the present invention.

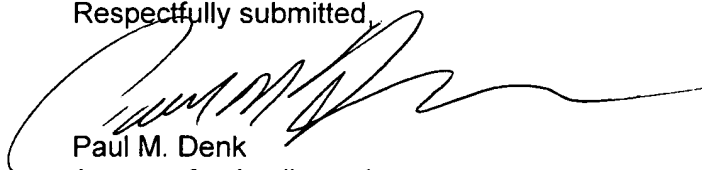
Seventh, the examiner has cited U.S. Pat. No. Des. 302,838 to Wendt for obviousness against the present invention. Wendt discloses a footplate with axles and

suspension beneath for use in roller skating. The footplates secure to a wearer's shoes using straps that wrap over the instep and ankle of the wearer's foot. The straps appear secured upon each other using releasable fasteners and appear secured to the footplate through slots. As the present invention does not have a footplate for securement to roller skates and does not secure behind the ankle, Wendt does not suggest the features of the present invention.

The examiner's attention is directed to the cases of *Ex parte Beuther*, 71 USPQ2 1313, (Bd. Pat. App. & Int. 2003) and *In re Geiger*, 815 F2d. 686 (Fed. Cir. 1987). Hence, as stated in the case of *In re Geiger*, obviousness can not be established by the teachings of the prior art to produce the claimed invention, absence some teaching, suggestion, or incentive supporting that combination

The claims now active in this application are believed to be in condition for allowance. Favorable action by the examiner is respectfully requested.

Respectfully submitted,



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